

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:23-CV-149-KDB-DCK**

JAMES A. THOMPSON,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
WANDA GRIFFIN,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on the “Notice Of Substitution” (Document No. 6) filed by the Government on November 9, 2023. This filing has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the Notice, the record, and applicable authority, the undersigned will allow the requested relief.

The Government makes the following argument:

The United States should be substituted as a matter of law and under the authority of 28 U.S.C. §§ 1346(b), 2671-2680, for its employee Wanda Griffin as follows. “When a federal employee is sued for a wrongful or negligent act, the Federal Employees Liability Reform and Tort Compensation Act of 1988 (commonly known as the ‘Westfall Act’) **empowers the Attorney General to certify that the employee ‘was acting within the scope of his office or employment at the time of the incident out of which the claim arose . . .’” *Gutierrez de Martinez v. Lamagno*, 515 U.S. 417, 419 (1995) (quoting 28 U.S.C. § 2679(d)(1)). “**Upon certification, the employee is dismissed from the action and the United States is substituted as defendant.**” *Id.* at 420. “The case then falls under the governance of the Federal Tort Claims Act . . .” *Id.***

(Document No. 6, pp. 1-2) (emphasis added).

The Government has filed a “Certification Of Scope Of Employment” (Document No. 1-2) asserting that “Wanda Griffin of the United States Department of the Treasury, Internal Revenue Service, was acting at all relevant times within the course and scope of her federal employment.” (Document No. 1-2, p. 1).

Based on the foregoing, it appears that Wanda Griffin should be substituted by the United States of America as Defendant in this action.

IT IS, THEREFORE, ORDERED that Defendant’s “Notice Of Substitution” (Document No. 6) is **GRANTED**. The United States of America shall be substituted as Defendant.

SO ORDERED.

Signed: November 21, 2023



David C. Keesler
United States Magistrate Judge
